

JONATHAN SHUB (SBN 237708)  
MIRIAM L. SCHIMMEL (SBN 185089)  
**SEEGER WEISS LLP**  
1515 Market Street, Suite 1380  
Philadelphia, Pennsylvania 19102  
(215) 564-2300 tel; (215) 851-8029 fax  
[jshub@seegerweiss.com](mailto:jshub@seegerweiss.com)

[ADDITIONAL COUNSEL ON SIGNATURE PAGE]

Attorneys for Plaintiff,  
and all others similarly situated

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

ARAM HOVSEPIAN, individually and  
on behalf of all others similarly situated,

Plaintiff,

vs.

APPLE, INC.,

Defendant.

Case No. C08-05788 JF

**STIPULATION AND [PROPOSED]  
ORDER FOR EXTENSION OF  
TIME FOR PLAINTIFF TO FILE  
AMENDED COMPLAINT IN LIEU  
OF OPPOSITION TO  
DEFENDANT'S MOTION TO  
DISMISS, AND FOR DEFENDANT  
TO FILE RESPONSIVE PLEADING  
TO PLAINTIFF'S AMENDED  
COMPLAINT**

Date: April 24, 2009

Time: 9:00 a.m.

Dept. Crtm. 3, 5<sup>th</sup> Floor

Plaintiff Aram Hovsepian, individually and on behalf of all others similarly  
situated ("Plaintiff"), and Defendant, Apple, Inc. ("Defendant"), through their  
respective attorneys, hereby set forth as follows:

WHEREAS, Defendant filed a Motion to Dismiss Plaintiff's Complaint  
pursuant to Federal Rule of Civil Procedure Rule 12(b), which is set for hearing

1 before this Court on April 24, 2009;

2 WHEREAS, Defendant's opposition is due on or before April 3, 2009;

3 WHEREAS, Federal Rule of Civil Procedure Rule 15(a) allows Plaintiff to  
4 amend his complaint once as a matter of right before a responsive pleading is filed;

5 WHEREAS, Defendant's Rule 12(b) Motion is not considered to be a  
6 responsive pleading under the F.R.C.P.;

7 WHEREAS, Plaintiff has met and conferred with Defendant and has  
8 proposed that, in lieu of opposing Defendant's motion, Plaintiff will amend his  
9 complaint, Defendant will withdraw its Motion to Dismiss and the hearing  
10 scheduled for April 24, 2009 will be taken off calendar;

11 WHEREAS, Plaintiff has asked Defendant for an additional two weeks from  
12 the date when Plaintiff's opposition to the motion was due, in order to draft and  
13 file his amended complaint (the "Amended Complaint");

14 WHEREAS, in exchange therefor, Plaintiff has agreed to allow Defendant  
15 45 days to file a responsive pleading to the Amended Complaint;

16 **BASED THEREON, THE PARTIES HEREBY STIPULATE AND**  
17 **AGREE AS FOLLOWS:**

18 In lieu of opposing Defendant's Motion to Dismiss, Plaintiff agrees to file an  
19 Amended Complaint on or before April 17, 2009.

20 Defendant agrees that, upon the Court's approval of this Stipulation,  
21 Defendant's Motion to Dismiss shall be withdrawn.

22 The hearing scheduled for April 24, 2009 will be taken off calendar.

23 Defendant shall have 45 days from the date Plaintiff files his Amended  
24

1 Complaint in which to file a responsive pleading.

2  
3 **IT IS SO STIPULATED.**

4 Dated: April 3, 2009

Respectfully Submitted,

6 By: /s/  
7 JONATHAN SHUB (SBN 237708)  
8 **SEEGER WEISS LLP**  
1515 Market Street, Suite 1380  
Philadelphia, Pennsylvania 19102  
9 (215) 564-2300

10 David R. Buchanan  
11 **SEEGER WEISS LLP**  
One Williams Street  
New York, NY 10004  
12 (212) 584-0700

13 Eric D. Freed (SBN 164526)  
George K. Lang  
Michael J. Lotus  
14 **FREED & WEISS LLC**  
111 W. Washington St., Suite 1331  
15 Chicago, Illinois 60602  
16 (312) 220-0000

17 Michael J. Boni  
18 **BONI & ZACK, LLC**  
16 St. Asaphs Road  
Bala Cynwyd, PA 19004  
19 (610) 822-2000

20 Michael D. Donovan  
21 **DONOVAN SEARLES, LLC**  
1845 Walnut Street, Suite 1100  
Philadelphia, PA 19103  
22 (215) 732-6067

23 Richard J. Burke  
24 **RICHARD J. BURKE LLC**  
1010 Market Street, Suite 650

1 St. Louis, Missouri 63101  
2 (314) 621-8647

3 *Attorneys for Plaintiff, ARAM HOVSEPIAN,*  
4 *and all others similarly situated*

5 Dated: April 3, 2009

6 **PAUL, HASTINGS, JANOFSKY &**  
7 **WALKER LLP**

8 /s/ Thomas A. Counts

9 Thomas A. Counts

10 Tammy Lee Kissman

11 David M. Walsh

12 **PAUL, HASTINGS, JANOFSKY &**  
13 **WALKER LLP**

14 55 Second Street

15 24th Floor

16 San Francisco, CA 94105-3441

17 415-856-7000

18 Attorneys for Defendant, APPLE, INC

19 **ECF CERTIFICATION**

20 Pursuant to General Order No. 45, § X.B. the filing attorney attests that he has  
21 obtained concurrence regarding the filing of this document from each of the  
22 signatories to the document

23 Dated: April 3, 2009

24 /s/

Jonathan Shub, Esq.

**PURSUANT TO STIPULATION IT IS SO ORDERED:**

DATED: \_\_\_\_\_

Honorable Jeremy Fogel,  
**United States District Court Judge**